

BRET O. WHIPPLE, ESQ.  
Nevada Bar 6168  
BANKRUPTCY LAW CENTER  
520 Sinclair St., Reno, NV  
(775) 746-3333

E-filed on November 2, 2011

John White, Esq., SB #1741  
WHITE LAW CHARTERED  
335 West First Street  
Reno, NV 89503  
775-322-8000  
775-322-1228 (Fax)  
[john@whitelawchartered.com](mailto:john@whitelawchartered.com)

## Proposed Co-counsel for Debtor

**UNITED STATES BANKRUPTCY COURT  
DISTRICT OF NEVADA**

In re:

CASE NO.: BK-N-11-52516-btb

VAN JEFFREY GARDNER  
dba Quarter Circle Five Ranch

Chapter 12

## CHAPTER 12 PLAN #1, VALUATION MOTION, AND MOTION TO CONFIRM

## Debtor

Hearing date: December 6, 2011

Hearing date: December 1

Est. Time: 1 hour

CHAPTER 12 PLAN

VAN JEFFERY GARDNER, dba Quarter Circle Five Ranch ("Debtor") submits the following Chapter 12 Plan pursuant to section 1221 of the Bankruptcy Code.

### 1. Definitions:

- a. "Allowed Claim" means every Claim against Debtor as to which a proof of claim has been filed with the Court within the time fixed by the Court or otherwise deemed timely filed under applicable law, or, if such Claim arises from the Debtor's rejection of an unexpired lease or other

executory contract, within thirty (30) days after the Effective Date of the Plan, and as to which no objection to allowance of such Claim or request for subordination thereof has been filed within any applicable period fixed by the Court or as to which an order allowing such Claim and establishing priority has become final and non-appealable.

- b. “Claim” shall have the meaning ascribed to it in 11 USC 101(5) and shall include, without limitation, any claim scheduled in this Plan, whether or not filed.
- c. “Confirmation Date” shall mean the date of any Order of this Court confirming the Plan.
- d. “Effective Date” shall mean the 11th day following entry of an Order of confirmation, unless there be a timely appeal, in which event the Effective Date shall be the 11th day following the day when the entry of an Order affirming the confirmation of this Plan becomes final and non-appealable.
- e. “General Unsecured Creditors” means creditors holding Allowed Class 2 Claims.
- f. “Homestead” means Debtor’s home and adjacent buildings, being APN 11-350-03, an approximate 4.5 acre parcel more particularly described as The West 155.00 feet of the East 305 feet of the SW1/4 of the NE¼ of Section 17, Township 12 North, Range 62 East, M.D.B.&M.
- g. “Petition Date” means August 4, 2011.
- h. “Plan” shall mean Debtor’s Chapter 12 Plan, as it may be amended from time to time prior to confirmation.

1

2           i. "Plan Period" shall mean either the three-year period following the first  
3           payment made by Debtor pursuant to this Plan, or the date on which all  
4           Allowed Claims are paid in full, whichever is earlier.

5           j. "Quarter Circle Five Ranch" shall mean Debtor, and Debtor as sole  
6           remaining partner and sole owner of 100% of the assets of Quarter Circle  
7           Five Ranch, a dissolved Nevada partnership. Though some portions of  
8           Debtor's real property may still be titled in the name of Quarter Circle  
9           Five Ranch or Quarter Circle Five Ranch, a partnership, such title is bare  
10          legal title. All of the equitable interest in any property still titled in the  
11          name of Quarter Circle Five Ranch, a partnership, belongs to Debtor.

12          k. "Ranch" shall mean all of Debtor's real property being parcels 1, 2, 3, 4,  
13          5, 6, 7, 8, 9, 10 and 11, excluding Debtor's 4.5 acre homestead, as shown  
14          on the October 4, 2011 Stewart Title Preliminary Title Report  
15          ("Preliminary Title Report"), attached hereto as Exhibit A. Without  
16          limitation, Without limitation, "Ranch" shall include Debtor's interest in  
17          parcels 10 and 11, being property of the estate still titled in the name of  
18          Quarter Circle Five Ranch, a partnership and "Ranch" also includes  
19          Debtor's interest in the Horse and Cattle Camp, being Debtor's 16.174%  
20          interest in the 680 +/- acres shown on the Preliminary Title Report as  
21          Parcels 8 and 9. "Ranch" also includes the watering system (pivots, pipes  
22          and pumps) thereon. Debtor's Homestead, a separate parcel (APN 11-  
23          350-03), is included in the "Ranch." Parcel 12 is not property of the  
24          estate and therefore "Ranch" does not include Parcel 12.

25

26

27

28

1  
2       l. "Secured Claim" means a Claim, other than a set off Claim, that arose  
3           before or after the Petition Date that is secured by a security interest in or  
4           lien upon property, or the proceeds of the sale of such property, in which  
5           the Debtor or the estate has an interest, to the extent of the value, as of the  
6           Confirmation Date or such later date as established by the Court, of such  
7           interest or lien as determined by a Final Order of the Court pursuant to  
8           Section 506 of the Bankruptcy Code. An Allowed Secured Claim will  
9           include all accrued interest and attorney's fees, to the extent the same are  
10          allowable under 11 U.S.C. § 506, and to the extent attorneys' fees are  
11          reasonable or are approved by the Court after notice and hearing.

12       m. "Secured Creditor" means a creditor holding an Allowed Secured Claim.  
13       n. "Trustee" shall mean M. Nelson Enmark, or such other person who is  
14           duly appointed as the standing Chapter 12 trustee in the District of  
15           Nevada.

16  
17       2. Debtor shall, during the Plan Period, submit all or such portion of his future  
18           earnings or other future income to the supervision and control of the Trustee as is  
19           necessary for the execution of the Plan. Debtor will receive a salary of \$1,500 per  
20           month during the Plan Period.

21       3. All Claims entitled to priority under Section 507 of the Bankruptcy Code  
22           ("Section 507"), shall be paid in full, in deferred cash payments, unless—  
23           a. the claim is a Claim owed to a governmental unit that arises as a result of  
24           the sale, transfer, exchange, or other disposition of any farm asset used in  
25           the debtor's farming operation, in which case, the Claim shall be treated  
26           as an unsecured Claim that is not entitled to priority under Section 507,

but the debt shall be treated in such manner only if the debtor receives a discharge; or

- b. the holder of a particular Claim agrees to a different treatment of that Claim.

4. Claims shall be divided into four secured classes, one unsecured class and one class of interests. Each Secured Claim is its own class. Each Claim or interest within a particular class shall be treated the same unless the holder of a particular Claim or interest agrees to less favorable treatment. Plan classes are as follows:

a. Secured.

- i. Class 1(a): First National Bank of Ely's Claim as holder of a note dated January 14, 2002, in the face amount of \$200,000 (loan number 19981), secured by a first deed of trust on Debtor's approximately 4.5 acre homestead (APN 11-350-03), recorded in White Pine County Nevada as Book 337 Page 513, the unpaid balance of which was approximately \$182,000 as of the Petition Date.

ii. Class 1(b): First National Bank of Ely's claim as holder of a note dated March 11, 2010, in the face amount of \$160,076.44 (loan number 20913), secured by a second deed of trust on Debtor's approximately 5-acre homestead (APN 11-350-03), recorded in White Pine County Nevada as Doc #0348259, the unpaid balance of which was approximately \$160,000.00 on the Petition Date.

iii. Class 1(c): First National Bank of Ely's Claim as judgment creditor under that certain Deficiency Judgment issued by the Seventh Judicial District Court of White Pine County, Nevada, entered on April 21, 2011 and recorded on April 28, 2011, official records, White Pine County, as Document No. 352831. See Item 31 on the Preliminary Title Report.

iv. Class 1(d): Margaret Gardner. This approximate \$80,000  
Claim is secured by a June 17, 2011 commercial security  
agreement. See Item 32 (Document 353410) in the  
Preliminary Title Report.

b. Class 2. General Unsecured Claims.

c. Class 3. Interests

5. Claims entitled to priority under Section 507 shall not be classified but shall be paid in full over the life of the Plan or as otherwise provided in Title 11.

#### **6. Treatment of Claims:**

a. Secured Claims.

- i. Class 1(a): First National Bank of Ely's Class 1(a) Claim shall be paid in full, to the extent that it is an Allowed Secured Claim. The note shall be brought current and any deficiency shall be deemed cured and the note deaccelerated on the Effective Date. Debtor shall thereafter resume making contract payments directly to the First National Bank of Ely.

ii. Class 1(b). First National Bank of Ely's Class 1(b) Claim is disallowed as a Secured Claim. The fair market value of

1 Debtor's Homestead is \$175,000, an amount less than the  
 2 unpaid balance of First National Bank of Ely's Class 1(a)  
 3 Claim, also secured by Debtor's Homestead. Therefore, First  
 4 National Bank of Ely's Class 1(b) Claim is completely  
 5 unsecured and shall be treated as a Class 2 (General  
 6 Unsecured Claim) under this Plan.

7  
 8 iii. Class 1(c) First National Bank of Ely's Class 1(c) judgment  
 9 creditor Claim, to the extent it is an Allowed Secured Claim,  
 10 shall be paid in full from the Net Proceeds of the sale of the  
 11 Ranch. See below. To the extent that Net Proceeds are  
 12 insufficient to fully pay this Claim, the deficiency shall be  
 13 treated as a General Unsecured Claim and paid pursuant to  
 14 Class 2.  
 15

16 iv. Class 1(d). This Claim is based on a preferential transfer  
 17 under 11 USC 547. It is disallowed. Class 1(d) has the rights  
 18 of a General Unsecured Class 2 Creditor under this Plan.

19 v. Confirmation of this Plan shall constitute an adjudication that  
 20 First National Bank of Ely, including its successors and  
 21 assigns, has no encumbrance(s) on the Ranch except as  
 22 described in Class 1(a), Class 1(b) and Class 1(c), above, to  
 23 wit: any lien or encumbrance or obligation of Debtor of any  
 24 nature relating to Debtor's ownership of the Ranch inuring to  
 25 the benefit of First National Bank of Ely, its successors or  
 26 assigns, as well as any obligation of the Debtor to First  
 27

National Bank of Ely, which is not described above in Class 1(a), Class 1(b) or Class 1(c), shall be void as of the Effective Date. Without limitation, this includes Items 29 (Document 347460) and 30 (Document 352624) in the Preliminary Title Report.

b. General Unsecured Secured Claims:

i. Class 2. Allowed General Unsecured Claims shall be deemed to have been paid in full from the Net Proceeds from the sale of the Ranch, described below, after payment of 1) Plan payments on all Allowed Secured Claims, 2) Trustee's fees, and 3) allowed administrative expenses. Sums paid to the Trustee on behalf of this Class shall be distributed by the Trustee.

c. Interests.

i. Class 3. The equity interest of Debtor is not impaired by the Plan.

7. All monetary defaults have been considered in the Plan. All such defaults shall be deemed cured on confirmation of the Plan.
8. Debtor shall have up to 45 days following the Effective Date to object to Claims.
9. All executory contracts not specifically dealt with by this Plan are hereby rejected.
10. All property of the estate shall vest in the Debtor on confirmation of the Plan.
11. Allowed administrative expenses, including statutory Trustee fees, shall be paid in full from the proceeds of the sale of the Ranch, described below.

1  
2       12. Debtor Reports. Unless excused by the Trustee, Debtor shall prepare and file a  
3           complete Return of Sale, concerning the sale described below, within 45 days of  
4           the Effective Date, showing the disbursement of sale proceeds.

5       13. FAILURE OF CREDITOR(S) TO FILE A TIMELY WRITTEN OBJECTION  
6           TO THIS PLAN PRIOR TO CONFIRMATION SHALL CONSTITUTE  
7           ACCEPTANCE OF THE PLAN.

8       14. Subject to the provisions of 11 U.S.C. §502, untimely Claims are disallowed,  
9           without the need for formal objection, unless allowed by court order. The claims  
10          bar date is November 30, 2011.

11       15. This Plan may be altered post confirmation in a non-material manner by court  
12          order after notice to the debtor, the Trustee, any creditor, whose Claim is the  
13          subject of the modification, and any interested party who has requested special  
14          notice. The Plan may also be modified post-confirmation as provided in 11  
15          U.S.C. § 1229.

16       16. Post-petition interest on all unsecured Claims is disallowed.

17       17. Unless objected to at or before the first date set for the confirmation hearing of  
18          this Plan, the fair market value of the Debtor's Ranch, including pivots, shall be  
19          fixed at \$1,031,500.00. The fair market value of Debtor's other assets which are  
20          subject to the Claim(s) of a creditor with an Allowed Secured Claim shall be fixed  
21          as follows for purposes of administration of this Plan:

Item	Fair Market Value
Homestead	\$175,000.00
All of Debtor's other assets are unencumbered.	

1

## 18. Sale of Ranch

- a. Debtor shall, on the Effective Date, sell the Ranch to Michael Cannon, free and clear of liens, for \$1,031,500 cash. Any order Confirming the Plan shall contain standard language, if any, required by the escrow company to consummate the sale.
- b. Any liens and encumbrances on the Ranch shall, subject to the provisions of this Plan, be transferred to the Net Proceeds of the sale. “Net Proceeds” shall be sale proceeds minus normal closing costs, any broker’s commission to Kenna Almburg which Debtor may have to pay (Buyer is expected to pay Broker’s commission), and any applicable Federal or State taxes, Net Proceeds shall be held by the Trustee, subject to the provisions of this Plan and any order of this Court.
- c. The sale is subject to the condition that appraiser Lyn Norberg appraise the Ranch for at least \$1,025,000. Though the formal appraisal is expected shortly before Thanksgiving, a letter containing Mr. Norberg’s valuation of the ranch is expected on or before November 4, 2011. This Plan will be supplemented with that letter when it is received.

## VALUATION MOTION

19. The debtor moves this honorable Court for an order fixing the fair market value of the Ranch, and the Homestead, for purposes of confirmation and administration of this Plan, at the dollar amount(s) provided in paragraph 17, above.

**WHEREFORE DEBTOR PRAYS:**

- 1      1. That the Plan be confirmed;
- 2      2. That the Ranch and Homestead be valued as provided herein; and
- 3      3. For such other and further relief as is proper.

5      Dated November 2, 2011.

VAN JEFFREY GARDNER  
6      dba Quarter Circle Five Ranch

7      see attached  
8      Van Jeff Gardner, Debtor

9      Submitted by:

10     BANKRUPTCY LAW CENTER

11     By: /s/ Bret Whipple  
12        Bret Whipple, Esq.

13        and WHITE LAW CHARTERED

14        By: John White, Esq.  
15        Proposed Co-Counsel for the Debtor

1. That the Plan be confirmed;
2. That the Ranch and Homestead be valued as provided herein; and
3. For such other and further relief as is proper.

Dated November 2, 2011.

VAN JEFFREY GARDNER  
dba Quarter Circle Five Ranch



---

Van Jeff Gardner, Debtor

Submitted by:

BANKRUPTCY LAW CENTER

By: /s/ Bret Whipple  
Bret Whipple, Esq.

and WHITE LAW CHARTERED

By: \_\_\_\_\_  
John White, Esq.  
Proposed Co-Counsel for the Debtor

## INDEX OF EXHIBITS

Exhibit A. 10/24/2011 Stewart Title Preliminary Title Report 17 pages

1  
2 CERTIFICATE OF SERVICE  
3

4 I hereby certify under penalty and pain of perjury that I am an employee of White  
5 Law Chartered and that on the date shown below, I served a true and correct copy of the  
6 aforesaid:

7 CHAPTER 12 PLAN #1, VALUATION MOTION, AND MOTION TO CONFIRM  
8

9  a. Via the Court's ECF System on November 2, 2011 to:

10 LOUIS M. BUBALA on behalf of Creditor FIRST NATIONAL OF ELY  
11 lbubala@armstrongteasdale.com, bsalinas@armstrongteasdale.com

12 JANET L. CHUBB on behalf of Creditor FIRST NATIONAL OF ELY  
13 bsalinas@armstrongteasdale.com

14 M. NELSON ENMARK

15 nemark.trustee@gmail.com

16 BRET O. WHIPPLE on behalf of Debtor VAN GARDNER  
17 elisabethblc@yahoo.com;yeseniajlc@yahoo.com

18 JOHN WHITE on behalf of debtor VAN GARDNER

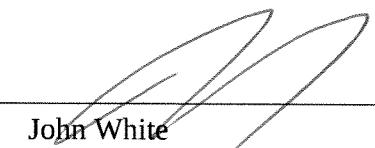
19 bankruptcy@whitelawchartered.com,

20 john@whitelawchartered.com;jen@whitelawchartered.com

21 and any and all other parties in interest who are noticed by the Court's ECF System.

22 The undersigned further affirms that the foregoing is true and correct to the best of my  
23 knowledge and that preceding document does not contain the Social Security number of any  
24 person.

25 Dated: November 2, 2011.

26  
27  
28   
John White